Taylor, 90 Ala. 244; *Canham* v. *Jones*, 2 Ves. & B. 218. So, too, it has been held to be an asset of a partnership. *Cooke* v. *Collingridge*, 27 Beav. 456. It has also been designated as an asset available in the hands of a trustee in bankruptcy. 46 & 47 VICT. c. 52, § 56. And it has been considered as property within the terms of a statute regulating the issue of stock of a corporation. *Washburn* v. *National Wall-Paper Co.*, 81 Fed. Rep. 17.

The prevailing view seems correct. The sole reason for denying that goodwill is property lies in the fact that in so far as it is "local" it is assignable only in connection with the transference of realty. But though this fact be true as to the method of its transference in such cases, it does not follow that goodwill is not of itself property. On the other hand, it is recognized that goodwill is of great pecuniary value, and that it is in one way or another assignable. Hence it would seem that goodwill has the two essential attributes of property and must be treated as such.

CONSTITUTIONALITY OF UNEQUAL TAX ASSESSMENT UPON REAL AND PERSONAL PROPERTY. — The problem of adjusting the burdens of government by a fair method of taxation is fast becoming one of the most formidable that confront the legislature and the judiciary. Many constitutions provide that "all taxation shall be equal and uniform"; and where such provision does not exist there is generally a statute of a similar tenor. The judicial interpretation of this form of legislation is of no little interest. Such laws do not mean that there shall be no special tax on a particular district for local improvements, nor that the method of valuation shall be the same for all sorts of property, nor that every tax-payer's burden shall be absolutely just. *Richmond* v. *Scott*, 48 Ind. 568; *State R. R. Tax Cases*, 92 U. S. 575; *Commonwealth* v. *Bank*, 5 Allen 428. But they do mean that there shall be no discrimination in estimating the value of property or in the rate of taxation against an individual or a corporation; no discrimination against a class, or against any species of property. See WELTY, ASSESSMENTS, § 186; *Bureau Co.* v. *C. B. & Q. R. R.*, 44 Ill. 229; *R. R. & Tel. Cos.* v. *Board*, 85 Fed. Rep. 302.

On the whole the courts have inclined towards a narrow rather than a broad construction. A good example of this policy appears in a recent decision of the New York Court of Appeals. A statute provided that "all real and personal estate liable to taxation shall be estimated and assessed by the assessors at its full and true value." An injunction was sought to restrain the collection of part of a tax on certain bank stock from the stockholders, on the ground that the real estate in the city of New York was deliberately assessed at only 60 per cent of its true value. In sustaining a demurrer the court admitted that the plaintiff's suit would properly come within equity's jurisdiction, since there was no adequate remedy at law. But it denied relief, influenced by the considerations that there was no inequality in the valuation of property of the same class, that the assessors presumably acted honestly, that absolute fairness is unattainable, that real estate cannot be hidden and is therefore at a disadvantage as compared with personalty, and that granting relief would upset the whole tax for a year long past. *Mercantile Nat. Bank* v. *Mayor, etc., of New York*, 172 N. Y. 35.

Admittedly the tax was in direct violation of a legislative mandate, yet the court would not interfere. If this plaintiff alone had had its burden thus illegally increased it would apparently have prevailed. See *Board of*

Assessors v. *Ala. C. R. R.*, 59 Ala. 551. If National Banks as a class had suffered they would have obtained relief. *Cummings* v. *Nat. Bank*, 101 U. S. 153. But because the class of sufferers, *i. e.*, all personal property holders, is so very large, they are without redress. The result certainly does not appear logical. Could a statute providing that all personalty shall be assessed at 100 per cent of its value and all realty at 60 per cent be passed without repealing by implication the section quoted above, or — had that section been in the Constitution — without being unconstitutional? Surely not. Yet, as the validity of an assessing law and the legality of an assessment must be tested by the same general principles, this decision would imply an affirmative answer to the question. Undoubtedly there are strong arguments in favor of the result reached. It is common knowledge that much personalty escapes taxation entirely, and that a decreased assessment upon realty does therefore approximate justice. But a system that lets honest personal property holders suffer, as this system does, cannot be the best. Approximate equality in taxation can be reached in other ways than by disregarding enacted laws. Let the legislatures, whose province it is, determine what laws will best attain justice, and let the courts enforce those laws unflinchingly. There are apparently no decisions contrary to the principal case; but for language opposed to it in spirit, see *Dundee* v. *Parrish*, 24 Fed. Rep. 197; *Bank* v. *Hines*, 3 Oh. St. 1; WELTY, ASSESSMENTS, § 185.

TORT CLAIMS AGAINST FOREIGN GOVERNMENTS. — By the seventh article of the Treaty of Paris, December 10, 1898, the United States and Spain mutually relinquished all claims of citizens or subjects of the one country against the government of the other; and the United States undertook to adjudicate and settle all claims of its citizens against Spain. In pursuance of this undertaking, Congress by Act of March 2, 1901, constituted a commission to receive and examine the claims of citizens of the United States against Spain. Before this Commission, one McCann who had been a seaman aboard the United States Battleship *Maine* at the time she was destroyed in Havana Harbor, sued for damages for injuries received in the explosion. The commission dismissed the claim on the ground that the injury done by the destruction of the *Maine* was a national injury, and that therefore no individual seaman acquired any claim against Spain. *McCann* v. *United States*, Before Spanish Treaty Claims Commission [1902]. The jurisdiction of the commission extends only to claims of citizens of the United States against Spain which existed at the date of the Treaty of Paris. Any possible claim which the petitioner may have had against Spain must be based on one of two grounds: either that Spain intentionally caused the explosion, or that she negligently permitted it to happen.

The Battleship *Maine* was present in Havana Harbor on an official errand of the United States. If it be assumed that the *Maine* was intentionally destroyed by Spain, the act of Spain can have only one possible significance. Without resort to the fiction of extraterritoriality, it can unqualifiedly be held that an attack on a vessel representing the United States is equivalent to an invasion of United States territory. It is an attack on the dignity of the United States as a sovereign independent state, the international equal of the attacking power. Such an act is an act of war in its very nature; and that nature is not changed because reasons of policy urge